
Imprimatur,

Tho. Grigg, R. in Christo
P. ac Domino, Domino
Humfr. Episc. Lond.
à Sacris.

TWO
CASES
OF
Conscience :

RESOLVED

By the Right Reverend Father in GOD

Robert Sanderson

Late Lord Bishop of

L I N C O L N.

LONDON;

Printed by E. C. for C. Wilkinson at
the Black-Boy over against St. Dunstons
Church in Fleetstreet, 1668.

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Author

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The Case of the ENGAGEMENT.

SIR,

I Have hitherto been very sparing in delivering my opinion, concerning the point, now most in agitation, *viz. Of the lawfulness, or unlawfulness, of Subscribing the Engagement*: considering the mischiefs that must needs have followed, if it should be once noised abroad, that I had given forth any determination, in so tickle a point. I could not but foresee on the one side, if I

A 3 should

should condemn it as utterly
 unlawful, how I should be
 looked upon, by those that have
 all power in their hands, not
 as a refuser only; but a dis-
 swader also of what they have
 thought fit to require: And on
 the other side, if I should allow
 it in any case Lawful, what ill
 use would certainly be made
 thereof by multitudes of people,
 apt to be so far scandalized
 thereby, as either to swallow it
 whole without chewing, (that
 is, resting themselves upon the
 general determination of the
 Lawfulness, to take it hand
 over head, without due consi-
 deration, either of the true mea-
 ning of it, or of other requisite
 cautions, and circumstances)
 or

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or else to conceive themselves by so engaging, to be for ever discharged from the bond of their former *Allegiance*.

Yet since by your Letter, and by sending your Servant therewith on purpose, so many dayes journey, through unknown wayes, and at this season of the year (especially as the weather hath proved, since his coming forth) scarce passable, you have shewn your earnest desire to understand what my opinion is in this point; so great, both for difficulty and concernment; I could not think it fit, nor consistent with that civility which is to be used, especially towards Strangers, to send back your messenger, without the return

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of

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of some kinde of answer :
Wherein , albeit I shall not
come up to the full, of what
your Letter declareth to be
your desire, *viz. In giving a
particular Judgment, and esti-
mate of the Eight several Ar-
guments, therein proposed, and
the additional Quære in the
Postscript :* yet you shall find
something , tending towards
your satisfaction therein , by
touching upon those points (so
farr as the straits of time would
suffer) wherein the difficulty
of the whole business, seemeth
chiefly to consist.

First then, it is to be consi-
dered, that *Allegiance* is a duty
that Every Subject, under what
form

form of Government soever, by the Law of *Nature*, oweth to his Countrey, and consequently to the Sovereign Power thereof. For the very same Law (which we may call the Law of *Nature*, at least in a large acceptance) which inclineth particular men, to grow into one civil body of a Commonwealth, must necessarily withall, imprint a sense, and tacite acknowledgement of such a duty of *Allegiance*, in every inferior member of the body, unto the *Caput Communis*, or Sovereign Power, by which that Commonwealth is governed, as is necessary for the preservation of the whole body. So that the bond of *Allegiance*,
 2nd T. 1. A 5 doth

doth not arise originally from the *Oath of Allegiance* ; as if those that had not taken the *Oath*, had a greater liberty, to act contrary to the *Allegiance*, specified in the *Oath*, then those that have taken it, have : or as if, in case the *Oath* should be quite laid aside, there should be no *Allegiance* due. But it is so intrinsecal, proper, and essential a duty, and (as it were) fundamental, to the relation of a Subject, *quâ talis*, as that the very name of a Subject, doth after a sort, import it ; In so much, that it hath thereupon gained, in common usage of speech, the style of *Natural Allegiance* : Whence all these inferences will follow.

1. That

1. That the *bond* of *Allegiance*, (whether sworn or not sworn) is in the nature of it *perpetual* and *indispensable*.

2. That it is so inseparable, from the relation of a subject, that although the exercise of it, may be suspended by reason of a prevailing force, whilst the Subject is under such force, (*viz.* where it cannot be imagined, how the endeavor of exercising it, can be effectually serviceable to restore the Sovereign Power to the right owner, for the establishment of that Publick Justice and Peace, wherein the happiness of Common-wealths consisteth) yet no outward force can so absolutely take it away, or remove

move it, but that still it remaineth virtually in the Subject, and obligeth to an endeavour (so soon as the force that hindered it is over) of actually exercising of it, for the advantage of the party, to whom of right it is due, and the advancement of the common good thereby, upon all fit occasions.

3. That no Subject of *England*, that either hath, by taking the Oathes of *Supremacy* or *Allegiance*; acknowledged; or that not having taken either Oath, yet otherwise knoweth, or believeth, that the *Sovereign Power* in *England*, to whom his *Natural Allegiance* is due, is the *King*, his
 200 m Heirs,

Heirs, and lawful Successors,
 can without sinning against
 his Conscience, enter into any
Covenant, Promise, or Engage-
ment, or do any other *Act,* or
Acts whatsoever, whereby ei-
 ther to transferr his *Allegiance*
 to any other party, to whom
 it is not of right due, or to
 put himself into an incapacity
 of performing the duties of his
bounden All. giance, to his law-
 ful Sovereign, when it may ap-
 pear to be useful, and service-
 able to him.

4. That therefore the taking
 of the late *Solemn League and*
Covenant, by any Subject of
England (notwithstanding the
 Protestation in the Preface,
 that therein he *had the Honour*
 of

of the King before his eyes; and that express clause in one of the *Articles* of it, wherein he swore, *The Preservation of the Kings Person and Honour*) was an act as clear contrary to the *Oath of Allegiance*, and the *Natural Duty* of every Subject of *England*; as the *Assisting of the King to the utmost of ones power* (which is a branch of the *Oaths*) and the assisting against any person whatsoever, with his utmost power, those that were actually in *Armes* against the King (which was the very end for which that *Covenant* was set on foot) are contrary the one unto the other.

5. And that also for the same reason, no Subject of *England*,

England, that hath taken the Oaths, and understandeth them, or is perswaded that the Sovereignty of this Realm, doth of right belong to the King, his Heirs, and lawful Successors, can without sinning in like manner against his Conscience, take the *Engagement* now offered: if he so understand the words, wherein it is expressed as if they did contain in them, and require of the Promiser, an acknowledgment that the Supream Power of this Realm, whereunto the Subjects ow their *bounden Allegiance*, is rightly vested in those persons that now exercise it; or as if they did import, an utter abjuration, or renouncing of
that

that *Allegiance*, which was formerly held due to the King.

II. This being cleared, the next enquiry must be, Whether or no *the words of the Engagement*, will reasonably bear such a construction, as to the understanding of a rational and conscientious Man, may seem consistent with his *bounden duty* and *Allegiance* to his lawful Sovereign? Whereof (I think) there need be no great question made, if it be well considered.

I. That all expressions by words, are subject to such ambiguities, that scarce any thing

thing can be said or expressed in any words, how cautiously soever chosen, which will not render the whole speech capable of more constructions than one.

2. That very many men, known to be well affected to the King and his party, and reputed otherwayes both learned and conscientious (not to mention the *Presbyterians*, most of whom, truly for my own part, when we speak of learning and conscience, I hold to be very little considerable) have subscribed the Engagement; who in the judgment of Charity we are to presume, would not so have done, if they had not been perswaded
the

the words might be understood in some such qualified sense, as might stand with the duty of *Allegiance* to the King.

3. That (as you write) it is strongly reported and believed, that the King hath given way to the taking of the Engagement, rather than that his good Subjects, should loose their Estates for refusing the same. Which as it is a clear evidence, that the King and they who are about him, to advise him, do not so conceive of the words of this Engagement, as if they did necessarily import an abandoning of the *Allegiance* due to him: so 'tis (if true) a matter of great consideration towards

wards the satisfaction of so many, as out of that fear only, have scrupled the taking of it. For the doing of that, cannot be reasonably thought to destroy the Subjects *Allegiance*; which the King, who expecteth *Allegiance* from all his Subjects, advisedly and upon mature deliberation alloweth them to do.

III. But all this being granted, that the words of the Engagement, are capable of such construction; yet is not the Conscience thereby sufficiently secured, from justly scrupling at the taking thereof, unless it may yet further appear, that the Subject hath the liberty to
make

make use of such a construction; which is in effect the *Quare* contained in your Postscript, *viz.* Whether upon supposition, that the words of the Engagement, will bear more constructions then one, the subscriber may take it in his own sense, or is bound to take it in the imposers sense? or, Whether it be necessary, or expedient before he subscribe, to ask those that require his subscription, in what sense they require him to subscribe it? Upon the resolution of which *Quare*, since (as I conceive) the last resolution of the Judgment, wherein the Conscience is to acquiesce, doth principally depend; I shall

shall endeavor to give you my thoughts therein, (wherein I acknowledge to have received much light and satisfaction, from a discourse written by a very Learned, Judicious and Pious friend, whereof I lately had the perusal, but for some reasons, not thought fit to be published) as distinctly, and clearly, as the time I have to do it in, will suffer.

1. *First* then, for a man that is required of another to give faith by some *Oath, Promise, or other Engagement*, to take it in a sense of his own, manifestly different (even in his own apprehension) from the others meaning, sufficiently expressed by words, according

ding to the common custom of speech, and the nature of the business which it concerneth, is so gross a conceit; that had not the impudence of the Jesuits, in maintaining the lawfulness of their Equivocations, and the sad experience of these late times, (wherein thousands have cheated themselves in perjury, by thinking to avoid it) evidenced the contrary, it might well have been thought a thing incredible, that any man of common understanding, should suffer his reason to be so infatuated by his affections, as to be deceived thereby. For if such latitude of construction, should be admitted in Promises, and other Obligations of that nature, intended

ded for the preservation of
 faith amongst mankind, there
 would not remain any possi-
 ble means, whereby for men
 to have assurance of one a-
 nother meanings. Wherefore
 I take that for a clear truth,
 That all Promises, and Assu-
 rances wherein *Faith* is re-
 quired to be given to another,
 ought to be understood, *ad*
mentem imponentis, according
 to the mind and meaning of
 him, to whom the faith is to
 be given; so far forth as the
 meaning may reasonably ap-
 pear, by the nature of the
 matter about which it is con-
 versant, and such signification
 of the words, whereby it is
 expressed, as according to the
 ordinary

ordinary use of speech amongst men, agreeth best thereunto. The reason whereof is, because the faith so required to be given, is intended to the behoof, and for the interest of him that requireth it; namely, to the end he may have the better assurance from him that giveth the faith, that what is promised shall be accordingly performed: which assurance he cannot have, if after his meaning, sufficiently declared by the words, it should yet be at the liberty of the promiser, to reserve another secret meaning in his own breast, differing therefrom.

2. But

2. But *Secondly*, what if the intention of the Imposer, be not so fully declared by the words, and the nature of the business; but that the same words may in fair construction, be still capable of a double meaning, so as taken in one sense, they shall bind *to More*, and in another *to Less*? I conceive in such case it is not necessary, nor alwayes expedient (but rather for the most part otherwise) for the Promiser, before he give faith, to demand of the Imposer, whether of the two is his meaning. But he may by the rule of Prudence, and

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that

that (for ought I see) without the violation of any Law of Conscience, make his just advantage of that ambiguity, and take it in the same sense which shall bind *to the Loss*. And this I ground upon the very same reason as before; For sith the Faith to be given, is intended to the behoof of him, to whom it is given, it concerneth him to take care that his meaning be expressed in such words, as will sufficiently manifest the same to the understanding of a reasonable man. Which if he neglect to do, no Law of Equity or Prudence, bindeth the Promiser, by an over-

overscrupulous diligence, to make it out, whereby to lay a greater obligation upon himself, than he needed to doe.

3. But then *Thirdly*, if it shall happen (as often it cometh to pass, when we have to deal with cunning men, and may possible be the Case now, and undoubtedly was so in the business of *the Protestation*, when the time was) That he that requireth the faith to be given, do of purpose so contrive the words, that there may be left an ambiguity and latitude of sense therein; yea, and that it be

very probable, and in a manner apparent, (upon the consideration of the point of interest, or other strong presumptions, arising from circumstances or otherwise) even to the apprehension of the promiser himself, that he hath some farther reach in requiring that promise from him, some more remote and secret intention, then he is willing to discover. In that case, What is to be done? I answer, That the Promiser in such case, is no wayes obliged in giving his Faith, to take notice of any secret intention; but is at liberty to make use of that Latitude of sense,

sense, which the other, did rather chuse to leave undetermined, then to restrain, and so to turn the others cunning dealing to his own best advantage, by taking it in the more favorable construction; and that which bindeth *to life*. For it is *the declared intention* only, (*viz.* That which the words, according to the common use of speech, do in relation to the nature of the subject, most naturally and properly represent, to the understanding of reasonable men, when they hear them) and not to the remote, secret, and *reserved intent*, which the Pro-

miser is obliged unto. The reason whereof is manifest; Because he that requireth Faith to be given from another, by words of his own contriving, is ever presumed so to have determined the sense thereof, in the contrivance of the words, as may sufficiently declare, what he intendeth the Promiser should assure him to perform. If therefore he have not so determined the words, as to signifie *the More*; it is in all reason to be presumed, that he intended to oblige him but to *the Less*. For being at liberty to make his own choice of words, whereby to express his

his own meaning ; who can think otherwise , but that he would make the choice with respect to his own Interest ? And therefore though he might have a secret desire, which he is loath to discover, that the Promiser should be bound to *the More*, and would be marvellously well pleased, that he should so understand the words, as if they intended to bind him to *the More* : Yet since it had been so easie a matter for him, by adding or altering a few words, to have declared that intent, if he had thought it conducive to his own ends, It will be presumed also, that it was out of respect

respect of self interest, that he forbore so to do, and chose rather to leave his meaning, in such general words, as will not exclude the sense, which bindeth but to *the Less*; and consequently that his declared intent obligeth to no more but *to the Less only*.

IV. To bring the matter yet closer, and to put it up to the present Cases, there are yet two things more to be done.

First, To shew what the different constructions (*the highest*, I mean, and *the lowest*) the words of the Engagement are fairly capable of.

And

And *Secondly*, to find as well as we can, Whether of the two is more probably the meaning intended by the Imposers, to be declared by the words.

The words are these:

I do promise to be true and faithful to the Commonwealth of England, as it is now established without King or Lords.

Wherein there are sundry ambiguities.

1. *First*, In the words *true and faithful*; by which may be intended, either the promise

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of

of that *Fidelity* and *Allegiance* (which was formerly acknowledged to be due to the King, &c.) to be now performed to those that are presently possessed of the Supreme Power, as their right and due. Or else that promise of *such a kind of fidelity*, as Captives taken in the Warr promise to their Enemies, when they fall under their power; viz. to remain true Prisoners of warr, and so long as they are in their power, not to attempt any thing to their destruction.

2. *Secondly*, In the word *Common-wealth*, by which may either

either be meant, those persons who are the *prevaleant party* in this Kingdom, and now are possessed of, and do exercise the Supreme Power therein, as if the right of Sovereignty were vested in them: Or else, the *whole intire body of the English Nation*, as it is a Civil Society or State within it self, distinguished from all other Foreign Estates. Taken in the former sense, the fidelity promised to the *Common-wealth*, relateth directly to the upholding of that party who are the present Governors *de facto*, and imports subjection to them as *de jure*: But taken in the latter,

latter, it relateth to the safety of the Nation, and importeth no more, as to the present Governors, but to live peaceably under them *de facto*, and to yield obedience to them in things absolutely necessary, for the upholding Civil Society within the Realm; such as are the defence of the Nation against Forainers, the furtherance of Publick Justice, and the maintenance of Trade.

3. In the words *as it is now established*, &c. which may be understood either by way of approbation, of what hath been done by way

way of abolishing Kingly Government, and the House of Peers, and placing all Authority and Power within the Realm, in the House of Commons. Or else *ἐξουσίᾳ* only, as a clause simply and barely reciting what manner of Government it is, that this Nation *de facto*, is now under; *viz.* a Government by the Commons only, without either King or House of Lords.

“ Which Ambiguities
 “ considered; *The highest*
 “ *construction* that can be
 “ reasonably made of the
 “ words, is to this effect. I
 “ ac-

“ acknowledge the Sovereign
 “ Power of this Nation,
 “ whereunto I ow Allegiance
 “ and Subjection, to be rightly
 “ stated in the House of Com-
 “ mons, wherein neither King
 “ nor Lords (as such) have,
 “ or henceforth ought to have,
 “ any share ; And I promise,
 “ that I will perform all Al-
 “ legiance, and subjection
 “ thereunto, and maintain the
 “ same with my fortunes and
 “ life, to the utmost of my
 “ power.

And the *lowest construction*
 that can be reasonably made
 of the same words, is to this
 effect: “ Whereas for the pre-
 “ sent the Supreme Power in
 “ *England,*

“ *England*, under which Pow-
 “ er I now am , is actually
 “ possessed and exercised by
 “ the House of Commons ,
 “ without either King or Lords ;
 “ I promise that so long as I
 “ live under their power and
 “ protection , I will not con-
 “ trive or attempt any act of
 “ hostility against them : but
 “ living quietly and peaceably
 “ under them, will endeavor
 “ my self faithfully in my place
 “ and calling , to do what
 “ every good member of a
 “ Common-wealth ought to
 “ do , for the safety of my
 “ Countrey, and preservation
 “ of Civill Society there-
 “ in.

V. Now

V. Now cometh in to be considered in the last place, the great Question, whether of the two constructions it is, (*That* which bindeth to the *Most*, or *This* which obligeth to the *Least*, the words can well bear) that the formers of the Engagement, did rather intend to declare by these words? They that think *the former*, want not probability of reason to ground their persuasions upon. For they consider, that those who are presently possessed of the Supreme Power, are not minded to part with it if they can hold it. And that the likeliest way to

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to hold it is, if they can possibly bring the whole people of *England*, or at the least the far greatest part thereof, to acknowledge that they are rightly possessed of it, and to promise Subjection and Allegiance to them as such. And that therefore the Engagement, being purposely devised and set on foot, as the fittest engine to expedite that work, must in all reason intend to oblige so farr. Which being so contrary to their Judgment and perswasion, concerning the duty and Oath of Allegiance, I cannot blame those that so understand the words of the Engagement, if they

they abominate the very thought of taking it.

But there wanteth not great probability of Reason, on the other side, to induce us to believe that the latter and lower sense, is rather to be deemed the immediate, and *declared intent* of the Imposers, whatsoever cause of suspicion there may be, that the former meaning, may be more agreeable to their *secret, reserved and ultimate intent*; between which two, if there be any difference (as it is not impossible but there may be) the Engager is not concerned in it, or not yet: the Equivocation, if there be any in that, must be put upon the Impos-

Imposers, not on the Promisers score. For thus believing, there are amongst others these Probabilities.

1. That many prudent and conscientious men of the Royal Party, as well Divines and Lawyers, as others, have thus understood it: who we presume would not for any outward respect in the world, have taken it, if they had conceived any more to have been intended in it.

2. That it hath often been affirmed, both publickly and privately, in several parts of the Kingdom (if we may believe either common fame, or the reports of sundry credible particular

ticular persons) by those that have perswaded or pressed others to subscribe; that the same is the very true intent and meaning of it, and no other.

3. That if the Imposers had been minded to have declared an intent of binding *to More*, they might easily have framed the words so, as not to be capable of a construction binding *to Less*.

4. That (as is also credibly reported) whilst the form of words was under debate, the opinion of those that would have had it set higher, was not followed, as held unseasonable; and the vote carryed, for

for the more moderate expression wherein it now standeth.

5. That the Imposers, intending by the Engagement to secure themselves, especially against the designs and attempts of those men, who they knew (well enough) held them for no other then Usurpers, must be in reason supposed to require no more assurance of them by the Engagement, then such as may and is usually given to Usurpers; which is, not an acknowledgment of their title, and a promise of Allegiance, but meerly a promise of living quietly, so long as they are under their power, and

and enjoy their protection.

6. That it is a received Maxim of Political prudence, for all new Governors, (especially those that either introduce a new form of Government, or come in upon a questionable title) to abstain from all harsh proceedings, even against those whom they know to be evil affected to their Power, and not so much as to exasperate them (though it be in the power of their hands to destroy them) especially in the beginning of their Government: but rather to sweeten them into a better opinion of their persons, and to win upon them by Acts of Grace and Obli.

(43)

Oblivion (for *Remissi- Senec. 1.*
us imperanti melius Dr. Clem.
paretur.) So as they ^{24.}
may have but any tolerable
kind of assurance from them
in the mean time, of living
quietly and peaceably under
them. We have no reason
therefore to believe that the
Imposers of this Engagement,
who have acted the parts of
the greatest Politicians, so
perfectly and succesfully hi-
therto, as to possess them-
selves so fully of the Supreme
Power of so great and flouri-
shing a Kingdom, in so few
years, would be so impolitick
as not to proceed by the same
rules, that all wise and suc-
cessful

cesful persons have ever praised in the managing, and for the establishing of an acquired power.

VI. Out of all these premises together (waving my Positive conclusion, either Affirmative or Negative, touching the Lawfulness or Unlawfulness of subscribing *in universali*) I shall declare my opinion only in these few following particulars.

1. That it is not lawful for any man to take the Engagement with a resolution to break it.

2. That therefore whosoever thinketh the words of the Engagement

Engagement do contain a promise of any thing which it is not lawful for him to perform, cannot take it with a good conscience.

3. That whosoever so understandeth the words of the Engagement, as if they did oblige him to any thing contrary to his Allegiance, or render him unable to act according thereunto, upon any seasonable emerging occasion, cannot with a good conscience take it.

4. That if any man for any temporal benefit, or avoiding any temporal damage, shall take the Engagement with a doubting conscience (that is

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before

before he be perswaded in his Judgment, upon some probable ground of reason, that it is lawful for him so to do) he sinneth therein.

5. That if any man after a serious desire of informing himself as rightly as he can, what are the duties of his Allegiance on the one side, and what is most probably the meaning intended by the words of the Engagement on the other side; shall find himself well satisfied in this perswasion, that the performance in the mean time of what is required by the Engagement so understood, is no way contrary (for any thing he can discern for

for the present) to his bounden Allegiance, so long as he is under such a force, as that he cannot exercise it; and likewise that whensoever that force is so removed from him, or he from under it, as that he hath power to act according to his Allegiance, the Obligation of the Engagement of it self determineth and expireth: and out of these considerations, rather then suffer extreme prejudice, in his person, estate, or necessary relations, shall subscribe the Engagement; Since his own heart condemneth him not, neither will I.

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Sir,

Sir, I have now two requests to you, which I doubt not but you will think reasonable. The one, that whatsoever use you shall please to make of these papers, or any thing therein contained, for your own or any friends satisfaction; yet you would not deliver any Copies abroad, least they should come to be printed, as some other papers of mine, written in this manner have been, without my knowledge. This I desire, both in respect of the danger I might incur from the displeasure of the Potent Party, if any such thing should come abroad; as also least upon the consideration of some things
here

here hinted, they might think the words of the Engagement too light, and might thence take occasion to lay some heavier Obligation upon us, in words that should oblige *to More*. The other request is, that since I have not any other perfect copy of what I now send you, you would procure it to be transcribed for me; and either the copy so transcribed, or these very papers rather, when you have transcribed them, transmit enclosed in a Letter, or by some Friend that will be sure to deliver them safe, with his own hands, to my Son ——— in *London*, to whom I shall write

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shortly

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shortly that he may expect them.

Sir, I desire that my best respects may be presented, &c.

— God endue us all with grace and wisdom fit for these evil times; to whose mercy and blessing commend us all, I rest,

Your loving Friend

B. P. Dec.

10. 1650.

and Servant.

The



The Case of a

RASH VOW

Deliberately Iterated.

The Case.

A Gentleman of good Estate,
 hath Issue one only Daugh-
 ter, who placing her affections
 upon a person much below her
 rank, intendeth Marriage with
 him: The Father hearing of
 it, in great displeasure knoweth,
 and confirmeth it with an Oath,
 that if she Marry him he will

C 4

never

never give her a farthing of his Estate. The Daughter notwithstanding Marryeth him: After which the Father sundry times iterateth and reneweth his said former Vow, and that in a serious and deliberate manner; adding further, That he would never give her or any of hers any part of his Estate.

QUÆRE:

Whether the Father's Vow so made, and so confirmed and iterated as abovesaid, be Obligatory or not?

The Resolution.

My opinion is, That the Vow was Rash, and is not at all Obligatory.

I. The

1. The Question here proposed is concerning the *Obligation* only ; yet I deem it expedient to declare my opinion concerning the *Rashness* also : and that for two reasons. *First*, Because there seemeth in the proposal of the Case, to be some weight laid upon the after iterations, which were more deliberate, as if they added to the Obligation. And *Secondly*, Because I think it needful that the Vower should as well be convinced of the greatness of his sin in making such a Vow, for the time past, as satisfied concerning the present and future invalidity of it.

2. It is easie to believe, that the Gentleman when he first
C5 made

made the Vow, was possessed with a very great indignation against his Daughter, for her high and inexcusable disobedience to him in so very weighty a business. And truly it must be confessed, he had need to be a man of a very rare command over his own Spirit, and such as are scarce to be found one of a thousand, that could so contain himself within the bounds of reason upon so just a provocation from an only child (possibly some other aggravating circumstances concurring) as not to be transported with the violence of that passion, into some thoughts and resolutions, not exactly agreeable with the dictates of right reason.

reason. It can therefore be little doubted, but the Vow made whilst the Reason was held under the force of so strong a perturbation, was a rash and irrational Vow.

3. Nor will these after-acts in confirmation of the first Vow, though having more of deliberation in them, be sufficient to redeem either it or themselves from the imputation of Rashness: understanding rashness in that latitude as the Casuists do, when they treat *de Voto temerario*, under the notion whereof they comprehend all such Vows as happen *per defectum plenæ & discussæ deliberationis*, as they express it; For it is to be considered, that when
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an injury, disobedience, or other affront is strongly resented, it many times taketh a very deep impression in the soul, which though after the first *impetus* have a little spent it self, it begin somewhat to abate, yet it doth so by such slow and insensible degrees, that the same perturbation, which first discomposed the mind, may have a strong influence into all succeeding deliberations for a long time after. Even as after an acute Feaver, when the sharpest paroxysmes are over, and the malignity of the disease well spent, although the party begin to recover some degrees of strength; yet there may remain for a good while after
such

such a debility in the parties, as that they cannot exercise their proper functions, but with some weakness more or less, till the party be perfectly recovered. Sith therefore the after-iterations of the first Vow in the present case, did proceed apparantly from the rancor and malignity remaining in the mind, as the dregs and reliques of the same perturbation, from which the first Vow also proceeded: they must upon the same account (to wit, *per defectum plenæ deliberationis*) undergo the same censure of Rashness with the first Vow. The same I say for the kind; some difference I grant there is for the degree: but *Magis & Minus*

non variant speciem, we know. And the consideration of that difference is only thus farr useful in the present Case, that the more deliberate those after-acts were, the more culpable they are, and the less capable either of Excuse, or Extenuation; and consequently doe oblige the party to so much the more serious, solemn, and lasting Repentance.

4. But concerning rash Vowes (in as much as the knot of the Question lyeth not there) it shall suffice to note these few points. *First*, That every *Rash Vow* is a sin; and that upon its own score, and precisely as it is *rash*, although it should not be any other way peccant.

peccant. All acts of Religious worship (by the importance of the third Commandment) are to be performed with al due sobriety, attention, and advisedness: how much more than a *Vow*? which is one of the highest acts of worship, as being a sacred contract, whereunto God himself is a party. See *Ecccl. 5. 1, &c.* Secondly, That Rash Vows are for the most part, (besides the Rashness peccant in their matter also; For they are commonly made in passion, and all passions are evil Counsellors, and Anger as bad as the worst. *The wrath of Man seldom worketh the righteousness of God.* Thirdly, That a Rash Vow, (though to be repented of for the

the Rashness) may yet in some cases bind. As for example; A man finding himself ill used by a Shop-keeper, of whom he had formerly been accustomed to buy, voweth in a rage, that he will never buy of him again: This is a Rash Vow; yet it bindeth, because if the party had never made any such Vow at all, it had neither been unjust or uncharitable, (nor so much as imprudent) in him for to have done the same thing, which by his Vow he hath now bound himself to do. So if a man impatient of his ill luck at Cards, should Vow in a heat never to play at Cards any more; he were in this case also bound to keep

keep his Vow : because there neither is any sin in keeping it, nor can be any great necessity why he should break it. That therefore *Fourthly* , if at any time a *Rash Vow* bind not ; the invalidity thereof proceedeth not meerly (nor indeed at all) from the Rashness (which yet is a very common error amongst men) but from the faultiness of it otherwise , in respect of the matter, or thing Vowed to be done ; when that which is so Vowed, is either so evil in it self, or by reason of circumstances, becometh so evil, that it cannot be performed without sin.

5. That therefore concerning the Vow in the present case,

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I declared my Opinion that it is not at all obligatory ; it is done upon this ground (which is a most certain truth and consented to by all) That *Rei illicitæ nulla obligatio*. If a man shall Vow any thing that is contrary to *Piety* ; as if having taken offence at some indiscreet passage in a Sermon of his own Minister, he should vow that he would never come to the Church , or hear him Preach again : Or that is contrary to *Justice* ; as to take away the life of an innocent person, as those 40 persons that had vowed they would neither eat nor drink till they had slain *Paul* : Or never to make restitution to one whom he knew he

he had wronged: Or contrary to *Charity*; as to be revenged of, or never to be friends with, one that had done him wrong: Or that is contrary to *Mercy*; as if having lost some money by lending to his friend, or having smarted by suretiship, he should vow never to lend any man money, or become surety for any man again. Let such a vow, I say, as any of these, or any of the like nature, be made either rashly, or deliberately, and strengthened with Oaths and Imprecations, in the most direful and solemn manner that can be devised to tye it on the faster; yet it is altogether null and invalid as to the effect of Obligation. Whence those com-

common sayings, *In malè promissis rescinde fidem*; *Ne sit fore juramentum vinculum iniquitatis*, &c. And we have a good able president for it in *David*, after wor he had in a rage vowed the destruction of *Nabal*, and all that belonged to him; which vow he upon better consideration, he not only did not perform, but he blessed God also, for so providentially preventing the performance of it, by the discreet demeanor, and intervention of *Abigail*.

6. Now the reason why such vows are not binding, is very pers cogent and clear; Even because the party at such time as he is supposed to have made such Vow, as aforesaid, lay under

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another (a former and there-
 fore a stronger) obligation to
 the contrary. And it is agree-
 able to all the reason in the
 world, that he who either by
 his own voluntary act, hath
 bound himself (where lawfully
 he might so do) or by the
 command of his lawful Super-
 ior (that hath a right to his
 service, and may exact obedi-
 ence from him) is already
 bound to do or not to do this
 or that; should not have power
 to disoblige himself therefrom,
 at his own pleasure, or to su-
 perinduce upon himself a new
 obligation contrary thereun-
 to: *Obligatio prior prajudicat*
posteriori. As in the case of
 Marriage, a precontract with
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one party, avoideth all after-
 contracts with any other : And
 if a man convey Lands to several
 persons, by deeds of several
 date, the first conveyance
 standeth good, and all the rest
 are void ; and so in all cases of
 like nature. The Obligatory
 power therefore that is in
Vows, Oaths, Promises, &c.
 rightly said by some, to be
constructive, not a *destructive*
 power. The meaning is that
 such acts may create a new
 Obligation, where was none
 before, or confirm an old one
 but it cannot destroy an old
 one, or substitute another con-
 trary therunto, in the place
 thereof.

7. And the reason of this reason also, is yet farther evident; for that *Quisquis obligatur, alteri obligatur*. When a man is obliged by any act, it is alwayes supposed, that the obligation is made to some other party: to whom also it is supposed some right to accrue, by vertue of the said act obligatory; and that that other party is by the said act sufficiently vested in that said right, Of which right he cannot be again devested and deprived by the meer act of him, who instated him therein, and is obliged to perform it to him (unless himself give consent thereunto) without the greatest injustice in the World.

Now

Now God having a perfect right to our obedience, by his own obliging Precept, both for the not doing hurt to any man, and for the doing good to every man, upon all fit opportunities: and this right also confirmed, and ratified by our own obligatory act in a solemn manner, before many witnesses at our Baptism, when we vowed to keep all Gods Commandments: it were unreasonable to think that it should be in our power, by any after-act of ours to disoblige our selves from both, or either of those obligations. For then we might by the same reason free our selves from the obligation of that latter Act also (suppose an Oath

Oath, or Vow) by another subsequent Oath, or Vow ; and from that again by another : and so play fast and loose, make Vows and break them *in infinitum*. Evident it is therefore, that every vow requiring any thing to be done, which is repugnant to any office of *Piety, Justice, Charity, or Mercy*, which we owe either to God or man, is void, and bindeth not ; because it findeth us under the power of a former contrary obligation, and hath not it self power sufficient to free or discharge us from the same.

8. The general rule thus cleared, it remaineth to examine concerning the particular Vow, now in question, whether

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it be void upon this account or no? It will be found hard I believe to free this *Vow*, from being repugnant to the rules of *Justice*, but impossible I am sure, to reconcile it with the perfect Evangelical Law of *Charity* and *Mercy*. First, *Civil* and *Political Justice*, requireth that every man should obey the wholesome Laws of his Country, and submit himself to be ordered thereby. Now put the case (which is possible enough) that the Daughters Husband should for lack of support from his Father-in-law, or otherwise live and dye in great want, leaving his Wife, and many small Children behind him, destitute of all means for their necessar

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sustenance. The Law would (as I suppose) in that case, upon complaint of the Parish, and for their ease, send the Daughter and her Children to the Father, and compel him to maintain them out of his Estate. Which order he ought to obey, nor can refuse so to do, without the high contempt of publick Authority, and manifest violation of the Civil Justice, notwithstanding his Vow to the contrary: The Law must be obeyed whatsoever becometh of the Vow; in that case therefore it is evident the Vow bindeth not.

9. But say, that should not happen to be the case (which yet is more then any man can

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positively

positively say before-hand :) the Parent is nevertheless in *Moral Justice* bound to provide due maintenance for his Children and Grand-Children if he be able. St. *Paul* saith that Fathers ought to lay up for the Children. True it is, he speaketh it but upon the by, and by way of Illustration, in the handling of another argument, very distant from this business: but that doth not at all lessen the importance of it, such illustrations being ever taken *a minori*, and from such common notions as are granted, and consented unto by all reasonable men. The same Apostle having amongst other sins of the Gentiles, mentioned disobedience

ence to Parents in one verse, in the very next verse, mentioneth also want of natural affection in Parents. And the disobedience in the Childe can no more discharge the Parent from the obligation of that duty he oweth to the Childe, of *affection*, and *maintenance*, then the unnaturalness of the Parent, can the Childe from the duty he oweth to the Parent, of *Honour* and *Obedience*. For the several duties, that by Gods ordinance, are to be performed by persons that stand in mutual relation either to other, are not *pactional* and *conditional*; as are the Leagues and Agreements made between Princes (where the breach in

one part, dissolveth the obligation on the other) but are *absolute* and *independent*; wherein each person is to look to himself, and the performance of the duty that lyeth upon him, though the other party should fail in the performance of his.

10. Something I foresee, may be objected in this point, concerning the lawfulness of the Parents withdrawing maintenance from the Childe (either in whole, or at least in part) in the case of disobedience. Which how far forth it may, or may not be done; as it would be too long to examine, so it would be of little avail to the present business. For it is one thing to withhold
main-

maintenance from a disobedient Childe for the present, and to resolve so to continue till he shall see cause to the contrary. And another thing to binde himself by Vow or Oath, never to allow him any for the future, whatsoever should happen. Let be granted whatsoever can be supposed pleadable on the Fathers behalf, in the present case: yet there will still remain two particulars in this Vow, not easily to be cleared from being unjust. *First*, let the Daughters disobedience deserve all this uttermost of punishment, from the offended Father; yet how can it be just, that for the Mothers fault, the poor innocent (perhaps yet unborn)

born) Children, should be utterly, and irrecoverably excluded, from all possibility of relief from their Grand-Father ?
Secondly, It is (if not unjust, yet what differeth very little there-from) the extremity of rigid Justice ; that any offender (much less a Son or Daughter) should for any offence, not deserving death, be by a kinde of fatal peremptory decree, put into an incapacity of receiving relief from such persons, as otherwise ought to have relieved the said offender, without any reservation either of the case of *extreme necessity*, or of the case of *serious repentance*.

11. However it be for the point of *Justice* ; yet so apparent

rent is the repugnancy of the *matter* of this *Vow*, with the precepts of *Christian Charity* and *Mercy*; that if all I have hitherto said were of no force, this repugnancy alone were enough (without other evidence) to prove the unlawfulness, and consequently, the invalidity, or inobligability thereof. It is (not an Evangelical Counsel, but) the expresse peremptory precept of Christ, that we should be *merciful*, even as our heavenly Father is *merciful*. And inasmuch as, not in that passage only, but for the most part wheresoever else the duty of *mercy* is pressed upon us in the Gospel from the example of God: God is represented

to us by the name, and under the notion of a *Father*, although I may not lay much weight upon it, as a demonstrative proof; yet I conceive I may commend it as rational Topic, for all that are *Fathers* to consider of, whether it do not import, that *mercy* is to be expected from a *Father* as much as (if not rather much more then) from any other man; and that the want of *mercy* in a *Father*, is more unkindy, more unseemly, more unnatural then in another man: But this by the way. From that precept of *Christ*, we learn that as there is in *God* a two-fold *mercy*, (a giving *mercy*, in doing us good, though we deserve it not, and

a forgiving *mercy*, in pardoning us when we have done amiss :) so there ought to be in every good Christian man, a readiness (after the example of God) to shew forth the fruits of *mercy* to others, in both kindes, upon all proper, and meet occasions. So that if any person, of what quality or condition soever, shall upon any provocation whatsoever vow that he will never do any thing for such or such a man; or that he will never forgive such or such a man: every such Vow, being *contra bonos mores*, and *contra officium hominis Christiani*, is unlawful, and bindeth not.

12. The offices of *mercy* in the former of those two branches,

ches, *viz.* of doing good, and affording relief to those that are in necessity, are themselves of so great necessity (as the case may be) that common humanity would exact the performance of them from the hand, not of a stranger only, but even of an enemy. If a stranger, or an enemies Beast lie weltering in a Ditch, a helping hand must be lent to draw it out. The Samaritans compassion to the wounded Traveller, in the Parable, *Luke 10.* (There being a feud, and that grounded upon Religion, which commonly of all others, is the most deadly feud between the two Nations) is commended to our example, to the great reproach of

of the Priest, and Levite, for their want of *Bowels* to their poor Brother, of the same *Nation*, and *Religion* with themselves; For the nearer the Relation is between the Parties, the stronger is the obligation of shewing *mercy* either to other. And there is scarce any relation nearer, and more obliging, then that of Parents and Children.

Our Saviour, who in *Matth.* 15. sharply reprov'd such vows, (though made with an intention to advance the Service of God, by enriching his treasury) as hinder'd Children from relieving their Parents, will not certainly approve of such vows (made without any other intention

tion, then to gratifie rage, and impatience) as hinder Parents from relieving their Children.

13. If to avoid the force of this argument, it shall be alledged, that the Daughters disobedience, in a business of so high concernment, might justly deserve to be thus severely punished, and that it were but equal that she, who had so little regard to her Father, when the time was, should be as little regarded by him afterwards: All this granted, cometh not yet up to the point of shewing *Mercy* according to the example of God. No Childes disobedience can be so great to an earthly Parent, as ours is to our heavenly Father: Yet doth he
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notwithstanding all our ill deservings continually do us good, communicating to our necessities, and causing his Sun to shine, and his Rain to fall, and infinite benefits in all kinds to descend upon mankind, not excluding the most thankless, and disobedient, and rebellious, from having a share therein.

14. And as for that other branch of *Mercy* in pardoning offences, God giveth a rich example to all men, of their duty in that kinde, (and to Fathers particularly) by his great readiness to pardon the greatest offenders, if they sincerely seek to him for it. If the Father in the Parable, *Luke 15.* had proceeded with such severity against

against his riotous Son, as to have vowed never to have received him again; he had been a very improper exemplar, whereby to shadow out the mercy of God to repentant sinners. Concerning the great importance of this duty, which is so frequently inculcated by Christ, and his Apostles, and so peremptorily enjoined, as not any other duty more. See *Mat.* 6. 4, 15. *Mat.* 18. 21. — 35. *Eph.* 4. 32. *Col.* 3. 13. *James* 2. 13. See also *Sirac.* 28. 1, &c.] I shall not need to say much: only as to the present *Case*, it would be considered, how perverse a course it is, and contradictory to it self, for a man to think himself obliged,
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by one inconsiderate act, never to forgive his Daughter ; when as yet he cannot beg pardon of his own sins , at the hands of God, (as he ought in his daily prayer to do) without an express condition of forgiving every body , and an implicit imprecation upon himself, if he do not.

5. But shall the Daughter that hath thus grieved the spirit of her Father , thus escape unpunished, and be in as good a condition , as if she had never offended ? And will not others be encouraged by her impunity, to despise their Parents after her example ? There is much reason in this objection ; and therefore what I have hitherto written

written, ought not to be understood, as if thereby were intended such a plenary indulgence for the Daughter, as should restore her *in integrum*, but only that she should be made capable of receiving such relief from her Father, from time to time, as in relation to her necessities, and after carriage, from time to time, should seem reasonable; and that his Vow ought not to hinder him from affording her such relief. But by what degrees, and in what proportion. the Father should thus receive his Daughter, into his fatherly affection, and relieve her, must be left to discretion, and the exigence of circumstances. Only I should advise (in order to
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the objection *viz.* for examples sake, and that the Daughter might be made, even to her dying day, and kept, sensible of her great and sinful disobedience to her Father) that the Father should cut off from his Daughter, and her Posterity, some meet portion of his Estate, (as perhaps a fifth part at the least; or if a fourth, or a whole third part, I should like it the better :) and by a solemn deliberate vow, dedicate the same to be yearly employed in some pious and charitable uses. These times will afford him choice of objects, if God shall move his heart so to do; and by so doing, he may, *First*, in some sort redeem and make a kinde of

of satisfaction for his former *Rashness*, (not *Popishly* understood, and in regard of the *Justice of God*, but) in a *moral* sense, and in regard of the *world*, and his own *Conscience*. *Secondly*, it may be a good means to keep the Daughter in a continual fresh remembrance of her fault, that she may not, after a short and slight repentance (as in such cases too often it happeneth) forget the same; whereof she ought to have some remorse all the dayes of her life. *Thirdly*, he shall thereby after a sort, perform his first vow; I mean according to the general intention thereof; and the rational part, (which was to make his Daughter repent her folly,

folly, and to smart for it :) the over-plus more then this, being but the fruit of rancor and perturbation. *Lastly*, he shall in so doing, doubly imitate God, our heavenly Father. *First*, when a rash, or sinful act is made an occasion of a pious, or charitable work ; it beareth some resemblance of, or rather is indeed it self a gracious effect of that goodness and wisdom in God, whereby he bringeth light out of darknels, and good out of evil. *Secondly*, God himself when he graciously pardoneth a high presumptuous sin, as he did *David's* great sin, in the matter of *Uriah*, commonly layeth some lasting affliction upon the offender ; as he did upon *David*,

vid, who after the sealing his pardon for that sin by Nathan, scarce ever had a quiet day all his life long. The reason whereof seemeth to be double, partly for admonition to others, that none presume to provoke God in like manner, lest they smart for it also in like manner: and partly for the good of the offender, that he may by the smart be brought to the deeper sense of his error, and be oft-foons reminded of it, lest he should too soon forget it.

Thus have I with very much ado, (in that weak condition I have been in, ever since the question came to my hands, and wherein I yet continue) declar-

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red my opinion fully concerning the whole business as far as I understand it. More largely I confess then I intended, or perhaps was needful: and with greater severity, then (it may be) the parties will well like of. But truly I desired to do the part of a faithful Confessor, and the sores on both parts seemed to be such as were not to be touched, with too gentle a hand: In the Daughter, an act of high disobedience, transported by the passion of inordinate love; and in the Father an act of great Rashness, transported by the passion of inordinate anger: both beyond the bounds of right Reason, and Religion; and both to be deeply repented of. Howsoever, I cannot
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be suspected to have written any thing, either out of favour for, or prejudice against either party; not having the least conjecture, who the persons are that are concerned in the business: nor so much as in what part of the Nation they live. I shall pray that God would direct them both, to do that which may best serve to his glory, and bring the soundest comfort to their own souls. Amen.

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